

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GERALD WILLIAMS,

Plaintiff,

v.

SONNY PERDUE, Secretary of the U.S.
Department of Agriculture,

Defendant.

CASE NO. C19-0444-JCC

ORDER

This matter comes before the Court on Plaintiff Gerald Williams' renewed motion for leave to amend the complaint (Dkt. No. 36). Having considered the parties' briefing and the relevant record, the Court GRANTS the motion for the reasons explained herein.

I. BACKGROUND

Plaintiff Gerald Williams filed the original complaint in this matter on March 18, 2019. (*See* Dkt. No. 1.) The Court entered a scheduling order on July 9, 2019, which set the deadline for amending the complaint for October 4, 2019. (*See* Dkt. No. 13.) On August 31, 2020, Mr. Williams moved for leave to amend the complaint, seeking to add allegations and to request injunctive relief based on information he learned during discovery. (*See generally* Dkt. Nos. 31, 31-1.) Mr. Williams did not seek to add any new causes of action. (*See id.*) The Court denied the motion without prejudice because Mr. Williams did not demonstrate good cause for amending

1 the complaint eleven months after the deadline in the scheduling order. (*See* Dkt. No. 35.) Mr.
2 Williams now renews his motion for leave to amend and provides additional argument for why
3 there is good cause to amend the scheduling order. (*See* Dkt. No. 36.) Defendant Sonny Perdue
4 does not oppose Mr. Williams’ motion. (*See* Dkt. No. 37.)

5 **II. DISCUSSION**

6 When a party moves to amend a pleading after the deadline in the scheduling order, the
7 Court’s analysis proceeds in two stages. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d
8 604, 607–08 (9th Cir. 1992). First, the Court determines whether there is “good cause” to amend
9 the scheduling order under Rule 16(b)(4). *See id.* If there is not, the inquiry ends, and the motion
10 for leave to amend must be denied. *See id.* If there is good cause to amend the scheduling order,
11 then the Court proceeds to analyze whether the proposed amendment is proper under Rule 15.
12 *See id.*

13 The Court may modify a scheduling order if a party demonstrates “good cause.” Fed. R.
14 Civ. P. 16(b)(4). The good cause standard focuses primarily on “the diligence of the party
15 seeking the” modification. *Johnson*, 975 F.2d at 609. There is good cause to modify a deadline in
16 a scheduling order if “it cannot reasonably be met despite the diligence of the party seeking the
17 extension.” *Id.* (quoting Fed. R. Civ. P. 16(b) advisory committee’s note to 1983 amendment).
18 Here, Mr. Williams moves to modify the scheduling order because he learned new information
19 he wishes to include in his complaint in a deposition on August 31, 2020, well after the deadline
20 for amending the pleadings. (*See* Dkt. No. 36 at 7–8.) Mr. Williams originally moved for leave to
21 amend the complaint the same day he learned the new information. (*See id.*) Defendant Sonny
22 Perdue does not oppose Mr. Williams’ motion or argue that Mr. Williams has not been diligent.
23 (*See* Dkt. No. 37.) The Court finds that there is good cause to modify the scheduling order under
24 these circumstances.

25 The amendment is also proper under Rule 15. Defendant Sonny Perdue consents to the
26 amendment, (*see id.* at 1), so the Court need not analyze the factors relevant to whether it should

1 grant leave to amend. *See Fern v. United States*, 213 F.2d 674, 677 (9th Cir. 1954) (“Once the
2 adverse party has consented to the amendment of a pleading, the court has no control over the
3 matter under Rule 15(a).”).

4 While Mr. Williams’ original motion for leave to amend was pending, Mr. Perdue filed a
5 motion for partial summary judgment related to Mr. Williams’ Mt. Baker claims. (*See* Dkt. No.
6 33.) Neither party’s briefing addresses the impact of Mr. Williams’ proposed amended complaint
7 on the pending motion for summary judgment. However, in that motion for summary judgment
8 Mr. Perdue characterizes Mr. Williams’ allegations related to Mt. Baker in the proposed
9 amended complaint as “virtually identical to” the allegations in Mr. Williams’ original
10 complaint. (*See id.* at 2.) Therefore, the Court will construe Mr. Perdue’s motion for partial
11 summary judgment as applying equally to the amended complaint and concludes that the case
12 schedule, including the briefing schedule for the pending motion for summary judgment, need
13 not be modified.

14 **III. CONCLUSION**

15 For the foregoing reasons, the Court GRANTS Plaintiff Gerald Williams’ motion for
16 leave to amend. Plaintiff Gerald Williams must file the amended complaint within 14 days of this
17 order. The amended complaint shall not differ from the complaint included with Mr. Williams’
18 original motion (Dkt. No. 31-1.) Defendant Sonny Perdue shall respond to the amended
19 complaint within 30 days of the date Plaintiff files it. The case schedule, including the briefing
20 schedule on Mr. Perdue’s motion for partial summary judgment, remains unchanged.

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22 DATED this 9th day of October 2020.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE